

Hedstrom Corp. v. JumpSport, Inc.
Case No. 03 12308 PBS

Exhibit I

**to Declaration of Daniel J. Kroll
in Support Of Defendant JumpSport, Inc.'s Motion to Dismiss or Transfer**

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1 **A. DETERMINATION OF INVALIDITY**

2 I. Do you find that Defendants have proven that any of the following asserted claims of the
 3 '845 and '207 patents are invalid as being anticipated by any single reference in the prior art? (Check
 4 "Yes" for all claims you find to be invalid as anticipated.)

5 **'845 Patent**

Yes

6 Claim 1

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7 Claim 2

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8 Claim 3

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9 Claim 7

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10 Claim 8

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11 Claim 11

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12 Claim 12

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13 Claim 13

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14 Claim 15

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15 Claim 17

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16 **'207 Patent**

Yes

17 Claim 1

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18 Claim 5

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19 Claim 9

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20 Claim 10

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21 Claim 14

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22 Claim 15

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23 Claim 17

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24 Claim 24

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25 Claim 25

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26 Claim 26

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27 Claim 28

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28 Claim 29

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Claim 31

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Claim 32

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Claim 33

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Claim 35

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Claim 37

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Claim 38

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CLAIM 34

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2. With respect to any of the claims you do not find invalid as anticipated in your response to question 1 above, do you find that Defendants have proven that any of the following remaining asserted claims of the '845 and '207 patents are invalid as being obvious in view of the prior art? (Check "Yes" for all claims you find to be invalid as obvious.)

'845 PatentYes

Claim 1

Claim 2

Claim 3

Claim 7

Claim 8

Claim 11

Claim 12

Claim 13

Claim 15

Claim 17

☐☐☒☐☐☒☒☐☐☐(ANTICIPATED)
(ANTICIPATED)V.E.
K.E.'207 PatentYes

Claim 1

Claim 5

Claim 9

Claim 10

Claim 14

Claim 15

Claim 17

Claim 24

Claim 25

Claim 26

Claim 28

Claim 29

Claim 31

Claim 32

Claim 33

Claim 34

Claim 35

Claim 37

Claim 38

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N/A (ANTICIPATED)V.E.
K.E.

1 **B. DETERMINATION OF INVENTORSHIP**

2 3a. Do you find that any of the following persons are co-inventors of any of the claims of the
3 '845 patent? (If your response is yes, please indicate which claim or claims)

	<u>Yes</u>	<u>No</u>	<u>Claim(s)</u>
4 Mr. Gary L. Stoffer	_____	<u>✓</u>	_____
5 Mr. Douglas Freeman	_____	<u>✓</u>	_____
6 Mr. Donald Strasser	<u>✓</u>	_____	<u>1</u>

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8 3b. Do you find that any of the following persons are co-inventors of any of the claims of the
9 '207 patent?

	<u>Yes</u>	<u>No</u>	<u>Claim(s)</u>
10 Mr. Gary L. Stoffer	_____	<u>✓</u>	_____
11 Mr. Douglas Freeman	_____	<u>✓</u>	_____
12 Mr. Donald Strasser	<u>✓</u>	_____	<u>1</u>

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14 3c. If you checked "yes" to any of the boxes in 3a above, then do you find that the omission
15 of any such co-inventor from being listed on the '845 patent was the result of deceptive intent on the
16 part of such omitted co-inventor?

	<u>Yes</u>	<u>No</u>
17 Mr. Gary L. Stoffer	_____	_____
18 Mr. Douglas Freeman	_____	_____
19 Mr. Donald Strasser	_____	<u>✓</u>

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22 3d. If you checked "yes" to any of the boxes in 3b above, then do you find that the omission
23 of any such co-inventor from being listed on the '207 patent was the result of deceptive intent on the
24 part of such omitted co-inventor?

	<u>Yes</u>	<u>No</u>
25 Mr. Gary L. Stoffer	_____	_____
26 Mr. Douglas Freeman	_____	<u>✓</u>
27 Mr. Donald Strasser	_____	_____

1 3e. Do you find that Mr. Byron L. Bertsch is not a co-inventor of any of the claims of the
2 '845 patent?

3
4 ☒ ☐
5 Yes No

6 3f. Do you find that Mr. Byron L. Bertsch is not a co-inventor of any of the claims of the
7 '207 patent?

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9 ☒ ☐
10 Yes No

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12 3g. If your response to either 3e or 3f above is "yes," do you find that the inclusion of Mr.
13 Bertsch as a co-inventor listed on the '845 patent and/or the '207 patent was the result of any deceptive
14 intent on the part of Mr. Bertsch?

15 ☐ ☒
16 Yes No

C. DETERMINATION OF INFRINGEMENT

4. Do you find that JumpSport has proven that the FunRing 1 product of JumpKing, Inc. has infringed any of the asserted claims, 1, 3, 7, 12, 13, or 17, of the '845 patent, that you have not found to be invalid in your responses to questions 1 or 2, above?

a.

☒ Yes☐ No

b. If "Yes," please list the claim(s) of the '845 patent that you find are infringed:

#1, #7, #13, #17

5. Do you find that JumpSport has proven that the FunRing 2 product of JumpKing, Inc. has infringed any of the asserted claims of the '845 patent, 1, 3, 12, 13, or 17, that you have not found to be invalid in your responses to questions 1 or 2, above?

a.

☐ Yes☒ No

b. If "Yes" please list the claim(s) of the '845 patent that you find are infringed:

6. Do you find that JumpSport has proven that the FunRing 1 product of JumpKing, Inc. has infringed any of the asserted claims of the '207 patent, 5, 9, 10, 14, 17, 25, 26, 28, 31, 33, 34, 35, or 37, that you have not found to be invalid?

a. Yes No

b. If "Yes" please list the claim(s) of the '207 patent that you find are infringed:

5, 9, 14

7. Do you find that JumpSport has proven that the FunRing 2 enclosure product of JumpKing, Inc. has infringed asserted claim 14 of the '207 patent, if you have not found it to be invalid in your responses to questions 1 or 2, above?

a. Yes No

1 8. Do you find that JumpSport has proven that ICON Health & Fitness, Inc. has infringed
2 any of the asserted claims of the '845 patent, claims 1, 3, 7, 12, 13, or 17, that you have not found to be
3 invalid in your answers to questions 1 or 2, above:

4 a. _____ X
5 Yes No

6 b. If "Yes" please list the claim(s) of the '845 patent that you find are infringed:
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15 9. Do you find that JumpSport has proven that ICON Health & Fitness, Inc. has infringed
16 any of the asserted claims of the '207 patent, 5, 9, 10, 14, 17, 25, 26, 28, 31, 33, 34, 35, or 37, that you
17 have not found to be invalid in your responses to questions 1 or 2, above:

18 a. _____ X
19 Yes No

20 b. If "Yes" please list the claim(s) of the '845 patent that you find are infringed:
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10. Do you find that JumpSport has proven that any of the following retail defendants have infringed any of the asserted claims of the '845 patent, that you have not found to be invalid in your responses to questions 1 and 2, above, by selling the FunRing 1 and 2 products:

	Yes	No
Sam's West, Inc., and Sam's East, Inc. (dba Sam's Club)	_____	_____X
Wal-Mart Stores, Inc.	_____	_____X
Global Sport, Inc.	_____	_____X

11. Do you find that JumpSport has proven that any of the following retail defendants have infringed any of the asserted claims of the '207 patent, that you have not found to be invalid in your responses to questions 1 or 2, above, by selling the FunRing 1 and 2 products:

	Yes	No
Sam's West, Inc., and Sam's East, Inc. (dba Sam's Club)	_____	_____X
Wal-Mart Stores, Inc.	_____	_____X
Global Sport, Inc.	_____	_____X

12. Do you find that JumpSport has proven that the JumpGuard product of Hedstrom Corporation has infringed any of the asserted claims of the '845 patent, 1, 2, 3, 7, 8, 11, 12, 15 or 17, that you have not found to be invalid in your responses to questions 1 or 2, above?

a.

Yes

No

b. If "Yes" please list the claim(s) of the '845 patent that you find are infringed:

#1, #2, #7, #15, #17

13. Do you find that JumpSport has proven that the JumpGuard product of Hedstrom Corporation has infringed any of the asserted claims of the '207 patent, 1, 5, 9, 10, 14, 15, 17, 24, 25, 29, 31, 32, 33, 35, or 38, that you have not found to be invalid in your responses to questions 1 or 2, above?

a.

Yes

No

b. If "Yes" please list the claim(s) of the '207 patent that you find are infringed:

#9, #10

14. Do you find that JumpSport has proven that any of the following retail defendants have infringed any of the asserted claims of the '845 patent, that you have not found to be invalid in your responses to questions 1 and 2, above, by selling the JumpGuard enclosure products:

	Yes	No
Sam's West, Inc., and Sam's East, Inc. (dba Sam's Club)	_____	_____✓
Wal-Mart Stores, Inc.	_____	_____✓
Alticor Corp. (fka Amway Corp.)	_____	_____✓
Hammacher Schlemmer & Co., Inc.	_____	_____✓

15. If you have found (1) that at least one claim of the '845 patent or the '207 patent is infringed by any of the Defendants and, (2) that claim is not invalid, state whether or not the infringement by any of the following Defendants was willful.

	Yes	No
Jumpking, Inc.	_____	_____X
ICON Health & Fitness, Inc.	_____	_____X
Hedstrom Corporation	_____	_____X

D. DETERMINATION OF DAMAGES

16. If you have found that JumpSport has proven that any Defendant has infringed any of the asserted claims of the '845 or '207 patents which has not been found invalid, please state the amount of damages, if any, to which JumpSport has proven itself to be entitled, from each such Defendant, and indicate the measure of damages that you used in arriving at such amount (i.e., reasonable royalty, lost profits, or a combination of both):

Jumpking, Inc.

\$ 196,000

(measure of damages used: ROYALTY, L.P.);

Hedstrom Corporation

\$ 13,750

(measure of damages used: ROYALTY);

ICON Health & Fitness, Inc.

\$ 0

(measure of damages used: _____);

Sam's West, Inc. and Sam's East, Inc.

(dba Sam's Club)

\$ 0

(measure of damages used: _____);

Wal-Mart Stores, Inc.

\$ 0

(measure of damages used: _____);

Global Sport, Inc.

\$ 0

(measure of damages used: _____);

Alticor Corp. (fka Amway Corp.)

\$ 0

(measure of damages used: _____);

Hammacher Schlemmer & Co., Inc.

\$ 0

(measure of damages used: _____);

E. DETERMINATION OF FALSE ADVERTISING CLAIMS

17. JumpSport's Claim Against Jumpking and ICON.

Do you find that JumpSport has proven that Defendant Jumpking or ICON committed false advertising under the Lanham Act by making false or misleading statements relating to its products?

Jumpking: Yes ☒ No ☐

ICON: Yes ☐ No ☒

a. If your response to the question above, is "Yes," for either Defendant, please determine the amount of damages, if any, that you find JumpSport has proven should be awarded to JumpSport with respect to the false or misleading statements by Jumpking or ICON.

Jumpking: \$ 0

ICON: \$ 0

18. Jumpking's Claims Against JumpSport

Do you find that Jumpking has proven that JumpSport has committed false advertising under the Lanham Act by making false or misleading statements relating to its or another person's products?

JumpSport: Yes ☒ No ☐

b. If your response to the question above, is "Yes," please determine the amount of damages, if any, that you find Jumpking has proven should be awarded to Jumpking with respect to the false or misleading statements by JumpSport.

JumpSport: \$ 0